

Regulatory Impact Statement

1. Statutory Authority:

The Chair of the Workers' Compensation Board (Chair) is authorized to propose these amendments to Title 12 NYCRR. Workers' Compensation Law (WCL) § 117 (1) authorizes the Chair to make reasonable regulations consistent with the provisions of the WCL. WCL § 141 authorizes the Chair to enforce all provisions of the chapter and make administrative regulations and orders providing in part for the receipt, indexing, and examining of all notices, claims and reports. The amendment to WCL § 24 also requires these amendments to avoid a conflict with the current regulations when this amendment takes effect January 1, 2023.

2. Legislative Objectives:

These regulations are being proposed to reduce confusion with respect to the awarding of attorney's fees for workers' compensation claimants' attorneys (and licensed representatives).

3. Needs and Benefits:

This proposal is intended to conform the regulations to the amendment to WCL § 24 taking effect January 1, 2023. The amendment establishes a set schedule for fees to be awarded, depending on the type of award (for example, 15% of the increased compensation for awards increasing the amount of compensation for periods of temporary total or temporary partial disability). The current regulations take into account the time spent on the claimant's case and allow further discretion than the amendment to the statute allows, so they are currently in conflict with this statute. One of the goals of the Board is to make workers' compensation claims as efficient as possible. This regulation updates existing regulations to conform to the statute taking effect January 1, 2023, which will reduce confusion or disputes over attorney's fees awarded to claimant's attorneys and licensed representatives.

4. Costs:

This proposal has no impact on costs, as it simply conforms existing regulations to the statutory requirements taking effect January 1, 2023, which change the calculation for claimant’s attorney’s fees (or licensed representatives) in workers’ compensation claims.

5. Local Government Mandates:

The rule imposes no local government mandates.

6. Paperwork Requirements:

The proposed amendments to the regulations do not require any paperwork but allow a “substituted for” attorney or licensed representative (and the one currently retained by claimant) to present the Board their position in writing prior to allocation of the attorney’s fee.

7. Duplication:

The proposed regulation does not duplicate or conflict with any state or federal requirements.

8. Alternatives:

One alternative would be to not propose the amendments and continue with the existing regulations. However, these regulations are in direct conflict with the statute taking effect January 1, 2023, and would cause confusion and issues surrounding attorney’s fees.

9. Federal Standards:

There are no federal standards applicable to this proposed regulation.

10. Compliance Schedule:

The proposed amendments will take effect January 1, 2023, to conform to the date the statute takes effect.